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RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

Name REDD PAUL A
(Last) (First) (Initial)

Prisoner Number B-72683

Institutional Address P.O. BOX 7500
CRESCENT CITY, CA 95532

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PAUL A. REDD JR

(Enter the full name of plaintiff in this action.)

vs.

EDWARD ALAMEIDA

JOE MC GRATH

LEANNE WOODFORD

RICHARD KIRKLAND

(Enter the full name of the defendant(s) in this action)

C 05 3675

JF

Case No. PVT
(To be provided by the clerk of court)

**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C §§ 1983**

(PR)

[All questions on this complaint form must be answered in order for your action to proceed.]

I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement _____

B. Is there a grievance procedure in this institution?

YES (☒) NO ()

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (☒) NO ()

If your answer is YES, list the appeal number and the date and result of the appeal at

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RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

COMPLAINT

each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal _____

2. First formal level C02-01680 denied on June 27, 2002

3. Second formal level C02-01680 denied on August 12, 2002

4. Third formal level C02-01680 denied on September 27, 2002

E. Is the last level to which you appealed the highest level of appeal available to you?

YES (☒) NO ()

F. If you did not present your claim for review through the grievance procedure, explain

why. _____

II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

PAUL A. REDD JR B-72683

P.O. Box 7500

CRESCENT CITY, CA 95532

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

Edward Alameida former Director of CDC. P.O. 942883
SACRAMENTO, CA 94283, JOE McGRATH former Warden of PBSP

1 CURRENT ADDRESS P.O. BOX 942883 SACRAMENTO, CA 94283, JEANNE
 2 WOODFORD DIRECTOR OF CDC P.O. BOX 942883 SACRAMENTO, CA 94283
 3 RICHARD KIRKLAND WARDEN OF PBSP P.O. BOX 7000 CRESCENT CITY, CA
 4 95531 (SEE ATTACH PAGES PARTIES) pg 4-5)
 III. Statement of Claim

5 State here as briefly as possible the facts of your case. Be sure to describe how each
 6 defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any
 7 cases or statutes. If you have more than one claim, each claim should be set forth in a separate
 8 numbered paragraph.

9 FIRST CAUSE OF ACTION:

10 DIRECTOR OF CDC ENFORCEMENT
 11 IN BANNING AND PROHIBITING PLAINTIFF
 12 AND OTHER AFRICAN AMERICAN PRISONERS AT
 13 PELICAN BAY STATE PRISON FROM POSSESSING
 14 SWAHILI/ENGLISH DICTIONARIES VIOLATES
 15 THEIR CIVIL RIGHTS AND FIRST AMENDMENT

16
 17 On June 18, 2002 Plaintiff received an
 18 CDC-1819 Notification of Disapproval form
 19 stating Plaintiff will not be issued his Swahili/
 20 English Dictionary from CAROL'S BOOK STORE due to
 21 Defendant JOE Mc GRATH memorandum dated
 22 (SEE ATTACH NEXT PAGE 6-7)

IV. Relief

23 Your complaint cannot go forward unless you request specific relief. State briefly exactly what
 24 you want the court to do for you. Make no legal arguments; cite no cases or statutes.

25 PLAINTIFF SEEK DECLARATORY AND INJUNCTIVE
 26 RELIEF. DECLARE ITS AN ARBITRARY DISCRIMINATORY
 27 Policy BANNING AFRICAN AMERICAN PBSP PRISONERS
 28 POSSESSING SWAHILI/ENGLISH DICTIONARY

PARTIES

1. Plaintiff Paul A. Redd Jr was at all times mentioned herein confined at Pelican Bay State Prison. Brings this 42 USC § 1983 claims for relief as a result the violation of his Civil Rights.

2. Defendant Edward Alameida was the Director of the California Department of Correction at the time these Constitutional Violations occurred. He was legally responsible for the overall operation of the Department and each institutions under its jurisdiction including Pelican Bay State Prison including decisions and implementation of policies, procedures concerning all prisoners. He is sued in his official capacity.

3. Defendant Joe McGrath was the Warden of Pelican Bay State Prison at the time who order the BAD resulting in the Constitutional Violations. He was legally responsible for the daily operation of the prison while performing his duties under the supervision of defendant Edward Alameida. He is sued in his official capacity.

4. Defendant Jeann Woodford is the new Director of the California Department

of Corrections enforcing this arbitrary discriminatory policy. She is legally responsible for the overall operation of the Department and each institution under its jurisdiction, including Pelican Bay State Prison including decisions and implementation of policies, procedure concerning all prisoners. She is being sued in her official capacity.

5. Defendant Richard Kirkland is the new Warden at Pelican Bay State Prison enforcing this arbitrary discriminatory policy. He is legally responsible for the daily operation of the prison while performing his duties under the supervision of defendant Deanne Woodford. He is sued in his official capacity.

All named defendants were and are acting within the course and scope of their employment and under color of law.

1 December 28, 2001.

2 On June 20, 2002 Plaintiff filed an
3 602 APPEAL legno. CD2-01680 on the grounds
4 Defendant Joe McBrath policy was (1) Arbitrary
5 AND CAPRICIOUS violating plaintiff's First Amend-
6 ment (2) Arbitrarily discriminate against all African
7 American prisoners in Pelican Bay State Prison ~~and~~
8 in violation of CDC own non discriminatory policy
9 (3) The policy violates plaintiff's rights under
10 the Equal Protection Clause.

11 On June 27, 2002 the APPEAL was denied
12 at First Level. On August 12, 2002 the APPEAL
13 was denied at Defendant Joe Warden Second
14 Level Review.

15 On August 16, 2002 Plaintiff appealed this
16 ban to Defendant Edward Almeida to declare
17 the Memorandum void

18 On September 27, 2002 Defendant Edward
19 Almeida (Director's level) denied plaintiff appeal
20 on the ground the Swahili dictionary contain
21 information that is a safety concern and
22 the disallowed dictionary is due to psychological
23 interests.

24 Second Cause of Action:

25 Arbitrary Discriminatory Policy
26 BANNING THE POSSESSION OF SWAHILI/
27 English Dictionary BASED ON Plaintiff
28

RACE VIOLATES EQUAL PROTECTION
CLAUSE OF THE FOURTEENTH AMENDMENT.

Plaintiff contend the policy is racist in nature and clearly violates the EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT.

THERE ARE MANY INDIVIDUALS AND VARIOUS ETHNIC GROUPS IN PBSP SHU / PRISON THAT REPRESENT MANY RACES. YET THIS Policy by the FORMER WARDEN JOE McGRATH AND ENFORCED by the FORMER DIRECTOR OF CDC EDWARD ALAMEIDA DOES NOT BAN THESE PRISONERS NOR PLAINTIFF FROM RECEIVING / POSSESSING MATERIAL including DICTIONARIES SUCH AS SPANISH / ENGLISH, CHINESE / ENGLISH, ITALIAN / ENGLISH, FRENCH / ENGLISH, GERMAN / ENGLISH AND ARABIC / ENGLISH TO NAME A FEW.

Plaintiff named defendant DEANNE WOODFORD Director of CDC and defendant RICHARD KIRKLAND Warden of PBSP they are the ones the Court can order to grant the relief sought under declaratory and injunctive RELIEF.

FEDERAL WRIT OF HABEAS CORPUS

REDD V. KIRKLAND CASE NO. C05-2442 JF (PK)

WAS DISMISSED WITHOUT PREJUDICE AND REFILE
UNDER A CIVIL RIGHTS COMPLAINT PURSUANT
TO 42 U.S.C. § 1983 (SEE ATTACH ORDER OF DISMISSAL
DATED JULY 8, 2005).

PLAINTIFF ASK THIS COURT TO ATTACH
HIS EXHIBITS FROM CASE NO. C05-2442 JF (PK)
WHICH CONTAINS PLAINTIFF PRISON APPEALS.

Proof of Service

I Plaintiff PAUL A. REDD JR on Aug 30
2005 served the attached:

Complaint 42 USC § 1983

REDD V. ALAMEIDA ET AL

ATTACHED W/ IN FORMA PAUPER'S APPLICATION

by placing a true original in a sealed envelope and handing to the law library officer for placing in institution mail addressed to the below

Office of the Clerk U.S. District Court
280 South First Street room 2112
SAN JOSE, CA 95113-3095

I declare under penalty of perjury that the foregoing is true and correct. Executed on Aug 30, 2005 at Pelican Bay State Prison P.O. Box 7500 Crescent City, CA 95532

Paul A. Redd Jr

FILED

JUL - 8 2005

RICHARD L. KIRKLAND
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL ALYWEN REDD, JR., ,

Petitioner,

vs.

RICHARD KIRKLAND, Warden,

Respondent.

No. C 05-2442 JF (PR)

ORDER OF DISMISSAL

Petitioner, a state prisoner proceeding pro se, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner's claims concern the conditions of his confinement at Pelican Bay State Prison. Petitioner alleges that his civil rights were violated by the California Department of Correction's policy prohibiting him from having a Swahili/English dictionary. Petitioner maintains that he has filed a grievance through the prison administrative appeal process.

The Supreme Court has declined to address whether a challenge to a condition of confinement may be brought under habeas. See Bell v. Wolfish, 441 U.S. 520, 526 n.6 (1979); Fierro v. Gomez, 77 F.3d 301, 304 n.2 (9th Cir.), vacated on other grounds, 519 U.S. 918 (1996). However, the Ninth Circuit has held that "habeas jurisdiction is absent, and a § 1983 action proper, where a successful challenge to a prison condition will not

1 necessarily shorten the prisoner's sentence." Ramirez v. Galaza, 334 F.3d 850, 859 (9th
2 Cir. 2003) (implying that claim, which if successful would "necessarily" or "likely"
3 accelerate the prisoner's release on parole, must be brought in a habeas petition). The
4 preferred practice in the Ninth Circuit has been that challenges to conditions of
5 confinement should be brought in a civil rights complaint. See Badea v. Cox, 931 F.2d
6 573, 574 (9th Cir. 1991) (civil rights action is proper method of challenging conditions of
7 confinement); Crawford v. Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming
8 dismissal of habeas petition on basis that challenges to terms and conditions of
9 confinement must be brought in civil rights complaint).

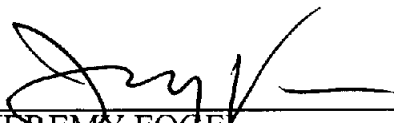
10 Accordingly, the Court dismisses this habeas action because Petitioner's claims do
11 not challenge the legality of his conviction or sentence. Instead, Petitioner alleges that the
12 Department of Correction's prohibition on his Swahili/English dictionary violates his
13 First Amendment and equal protection civil rights. Petitioner's claims are more
14 appropriately addressed in a civil rights complaint pursuant to 42 U.S.C. §1983.

15 CONCLUSION

16 The petition for writ of habeas corpus is DISMISSED without prejudice.
17 Petitioner may re-file his claims in a new action under a civil rights complaint pursuant to
18 42 U.S.C. §1983 on the enclosed form. Petitioner shall include supporting documentation
19 of his prison appeal with his new complaint as the instant case will be closed. The Clerk
20 shall close the file.

21 IT IS SO ORDERED.

22 DATED: 7-5-05

23 
JEREMY FOGEL
United States District Judge

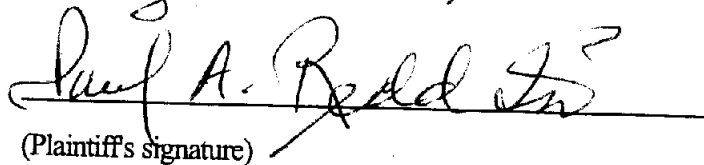
1 This is to certify that on 7-8-05, a copy of this ruling
2 was mailed to the following:

3 Paul Alywen Redd, Jr.
4 B-72683
5 Pelican Bay State Prison
6 P.O. Box 7500
7 Crescent City, CA 95531
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I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13 day of August, 2005


(Plaintiff's signature)